

Senate File 540

S-3107

1 Amend Senate File 540 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. NEW SECTION. 633F.1 Definitions.

5 1. "*Agent*" means a person granted authority to act for a  
6 parent, guardian, or legal custodian under a power of attorney  
7 created under this chapter.

8 2. "*Child*" means a person under eighteen years of age.

9 3. "*Power of attorney*" means a writing that grants authority  
10 to an agent to act in the place of a parent, guardian, or legal  
11 custodian regarding the care or custody of a child.

12 Sec. 2. NEW SECTION. 633F.2 Power of attorney — temporary  
13 delegation of parental authority.

14 1. A parent, guardian, or legal custodian of a child, by a  
15 properly executed power of attorney, may delegate to another  
16 person any authority regarding the care or custody of the child  
17 except for any of the following powers:

18 a. The power to consent to the child's marriage.

19 b. The power to consent to the child's adoption.

20 c. The power to consent to the performance or inducement of  
21 an abortion on or for the child.

22 d. The power to consent to the termination of the parental  
23 rights of a parent of the child.

24 e. The power to transfer the power of attorney to another  
25 person unless the other person is designated as a successor  
26 agent in the power of attorney.

27 2. A power of attorney executed under this chapter must be  
28 signed by all parents, guardians, and legal custodians. The  
29 power of attorney must be acknowledged before a notary public  
30 or other individual authorized by law to take acknowledgments.  
31 An agent named in the power of attorney shall not notarize the  
32 principal's signature. An acknowledged signature on a power of  
33 attorney is presumed to be genuine.

34 3. A parent, guardian, or legal custodian of the child shall  
35 have the authority to revoke or terminate a power of attorney

1 created under this chapter at any time by giving notice of the  
2 revocation in writing to the agent.

3 4. A power of attorney created under this chapter shall be  
4 for a period of time not to exceed three months. A parent,  
5 guardian, or legal custodian of the child may execute a new  
6 power of attorney for an additional period of three months, but  
7 in no case shall a power of attorney created under this chapter  
8 be valid for more than six months. If a parent, guardian, or  
9 legal custodian revokes or terminates the power of attorney,  
10 the child shall be returned to the care and custody of the  
11 parent, guardian, or legal custodian within twenty-four hours  
12 of the date of the revocation or termination.

13 5. An agent shall exercise parental or legal authority on a  
14 continuous basis without compensation for the duration of the  
15 power of attorney and shall not be considered to be a foster  
16 parent subject to licensure by the department of human services  
17 pursuant to chapter 237.

18 6. A power of attorney executed under this chapter by a  
19 parent, guardian, or legal custodian shall not constitute  
20 abandonment, abuse, or neglect of the child under chapter 232  
21 by the parent, guardian, or legal custodian unless the parent,  
22 guardian, or legal custodian fails to take custody of the child  
23 upon the expiration of the power of attorney.

24 7. A power of attorney executed under this chapter by a  
25 parent, guardian, or legal custodian shall not be valid if the  
26 purpose is to avoid the filing of a child in need of assistance  
27 petition.

28 8. This chapter shall not apply to a power of attorney  
29 created pursuant to section 598C.204.

30 **Sec. 3. NEW SECTION. 633F.3 Power of attorney temporary**  
31 **delegation of parental authority — form.**

32 A document substantially in the following form may be used  
33 to create a power of attorney temporary delegation of parental  
34 authority that has the meaning and effect prescribed by this  
35 chapter:

1 POWER OF ATTORNEY TEMPORARY DELEGATION OF PARENTAL AUTHORITY  
2 FORM

3 1. POWER OF ATTORNEY

4 This power of attorney authorizes another person (your  
5 agent) to make decisions concerning your child or children for  
6 you (the principal). Your agent will be able to make decisions  
7 and act with respect to your child or children. The meaning  
8 of authority over the child or children listed on this form is  
9 explained in Iowa Code chapter 633F. This power of attorney  
10 does not grant the agent the power to consent to a child's  
11 marriage or adoption, to the performance or inducement of an  
12 abortion on or for a child, or to the termination of parental  
13 rights of a parent of a child or to the transfer of the power  
14 of attorney to a person other than to a person designated as a  
15 successor agent in this power of attorney.

16 You should select someone you trust to serve as your agent.

17 Your agent is not entitled to compensation unless you state  
18 otherwise in the optional Special Instructions.

19 This form provides for designation of one agent. If you  
20 wish to name more than one agent, you may name a coagent in the  
21 optional Special Instructions. Coagents must act by majority  
22 rule unless you provide otherwise in the optional Special  
23 Instructions.

24 If your agent is unable or unwilling to act for you, your  
25 power of attorney will end unless you have named a successor  
26 agent. You may also name a second successor agent.

27 This power of attorney becomes effective immediately upon  
28 signature and acknowledgment unless you state otherwise in the  
29 optional Special Instructions.

30 If you have questions about this power of attorney or the  
31 authority you are granting to your agent, you should seek legal  
32 advice before signing this form.

33 DESIGNATION OF AGENT

34 I \_\_\_\_\_ (name of principal) name the  
35 following person as my agent:

1 Name of Agent \_\_\_\_\_  
2 Agent's Address \_\_\_\_\_  
3 Agent's Telephone Number \_\_\_\_\_

4 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

5 If my agent is unable or unwilling to act for me, I name as  
6 my successor agent:

7 Name of Successor Agent \_\_\_\_\_  
8 Successor Agent's Address \_\_\_\_\_  
9 Successor Agent's Telephone Number \_\_\_\_\_

10 If my successor agent is unable or unwilling to act for me, I  
11 name as my second successor agent:

12 Name of Second Successor Agent \_\_\_\_\_  
13 Second Successor Agent's Address \_\_\_\_\_  
14 Second Successor Agent's Telephone Number \_\_\_\_\_

15 GRANT OF GENERAL AUTHORITY

16 I grant my agent and any successor agent general authority to  
17 act for me with respect to my child or my children as defined in  
18 Iowa Code chapter 633F.

19 SPECIAL INSTRUCTIONS

20 You may give special instructions including the name and  
21 date of birth of the child on the following lines:

22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_  
29 \_\_\_\_\_  
30 \_\_\_\_\_  
31 \_\_\_\_\_  
32 \_\_\_\_\_  
33 \_\_\_\_\_.

34 EFFECTIVE DATE

1 This power of attorney is effective immediately upon  
2 signature and acknowledgment unless I have stated otherwise in  
3 the optional Special Instructions.

4 RELIANCE ON THIS POWER OF ATTORNEY

5 Any person, including my agent, may rely upon the validity of  
6 this power of attorney or a copy of it unless that person knows  
7 it has terminated or is invalid.

8 SIGNATURE AND ACKNOWLEDGMENT

9 \_\_\_\_\_  
10 Your Signature \_\_\_\_\_ Date \_\_\_\_\_

11 \_\_\_\_\_

12 Your Name Printed \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 Your Address \_\_\_\_\_

16 \_\_\_\_\_

17 Your Telephone Number \_\_\_\_\_

18 State of \_\_\_\_\_

19 County of \_\_\_\_\_

20 This document was acknowledged before me on \_\_\_\_\_

21 (date), by \_\_\_\_\_ (name of principal)

22 \_\_\_\_\_ (Seal, if any)

23 Signature of Notary \_\_\_\_\_

24 My commission expires \_\_\_\_\_

25 This document prepared by \_\_\_\_\_

26 \_\_\_\_\_

27 \_\_\_\_\_

28 2. IMPORTANT INFORMATION FOR AGENT

29 AGENT'S DUTIES

30 When you accept the authority granted under this power of  
31 attorney, a special legal relationship is created between the  
32 principal and you. This relationship imposes upon you legal  
33 duties that continue until you resign or the power of attorney  
34 is terminated or revoked. You must do all of the following:

35 Act in good faith.

1 Do nothing beyond the authority granted in this power of  
2 attorney.

3 Disclose your identity as an agent whenever you act for the  
4 principal by writing or printing the name of the principal and  
5 signing your own name as agent in the following manner:

6 \_\_\_\_\_ (principal's name) by  
7 \_\_\_\_\_ (your signature) as Agent

8 Unless the Special Instructions in this power of attorney  
9 state otherwise, you must also do all of the following:

10 Act loyally for the child's or children's and principal's  
11 benefit.

12 Avoid conflicts that would impair your ability to act in the  
13 child or children's and principal's best interest.

14 Act with care, competence, and diligence.

15 TERMINATION OF AGENT'S AUTHORITY

16 You must stop acting on behalf of the principal if you learn  
17 of any event that terminates this power of attorney or your  
18 authority under this power of attorney. Events that terminate  
19 a power of attorney or your authority to act under a power of  
20 attorney include any of the following:

21 The principal's revocation of the power of attorney or your  
22 authority.

23 The occurrence of a termination event stated in the power of  
24 attorney.

25 The purpose of the power of attorney is fully accomplished.

26 The time period specified in the power of attorney has  
27 expired.

28 The three-month time period permitted under Iowa Code  
29 chapter 633F has expired.

30 The three-month extension time period permitted under Iowa  
31 Code chapter 633F has expired.

32 LIABILITY OF AGENT

33 The meaning of the authority granted to you is defined in  
34 Iowa Code chapter 633F. If you violate Iowa Code chapter 633F,

1 or act outside the authority granted, you may be liable for any  
2 damages caused by your violation.

3 If there is anything about this document or your duties that  
4 you do not understand, you should seek legal advice.

5 Sec. 4. NEW SECTION. 633F.4 Agent's certification —  
6 optional form.

7 The following optional form may be used by an agent to  
8 certify facts concerning a power of attorney:

9 IOWA STATUTORY POWER OF ATTORNEY TEMPORARY DELEGATION OF  
10 PARENTAL AUTHORITY AGENT'S CERTIFICATION FORM  
11 AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY AND  
12 AGENT'S AUTHORITY

13 State of \_\_\_\_\_

14 County of \_\_\_\_\_

15 I, \_\_\_\_\_ (name of agent), certify  
16 under penalty of perjury that \_\_\_\_\_  
17 (name of principal) granted me authority as an agent  
18 or successor agent in a power of attorney dated  
19 \_\_\_\_\_.

20 I further certify all of the following to my knowledge:

21 The principal is alive and has not revoked the power of  
22 attorney or the Power of Attorney and my authority to act under  
23 the Power of Attorney have not terminated.

24 If the power of attorney was drafted to become effective  
25 upon the happening of an event or contingency, the event or  
26 contingency has occurred.

27 If I was named as a successor agent, the prior agent is no  
28 longer able or willing to serve.

29 \_\_\_\_\_  
30 \_\_\_\_\_  
31 \_\_\_\_\_.

32 (Insert other relevant statements)

33 SIGNATURE AND ACKNOWLEDGMENT

34 \_\_\_\_\_  
35 Agent's Signature Date

1 \_\_\_\_\_  
2 Agent's Name Printed  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 Agent's Address  
6 \_\_\_\_\_  
7 Agent's Telephone Number  
8 This document was acknowledged before me on \_\_\_\_\_  
9 (date), by \_\_\_\_\_ (name of agent)  
10 \_\_\_\_\_ (Seal, if any)  
11 Signature of Notary  
12 My commission expires \_\_\_\_\_  
13 This document prepared by  
14 \_\_\_\_\_  
15 \_\_\_\_\_>

\_\_\_\_\_  
JULIAN GARRETT